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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JORGE CAZAREZ GARCIA and MIRIAM
M. MARQUEZ, husband and wife,

CV 10-1007-HU

Plaintiffs,

OPINION AND ORDER

v.

FANNIE MAE, a government-sponsored
enterprise; BAC HOME LOAN
SERVICING, a Texas limited partnership;
and ABACUS MORTGAGE, INC., a
dissolved Washington corporation,

Defendants.

REDDEN, Judge:

On May 11, 2011, Magistrate Judge Dennis Hubel filed his Findings and Recommendation (doc. 39) that the court dismiss plaintiffs' claim for statutory damages and their claims against defendant BAC Home Loans Servicing, but denying defendants' motion to dismiss plaintiffs' remaining claims. Magistrate Judge Hubel also recommended the court grant

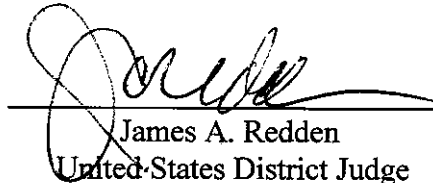
plaintiffs' motion to strike the Declaration of Kaley F. Fendall.

The matter is now before this court. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(b). Although plaintiffs' timely filed partial objections, the parties subsequently stipulated to plaintiffs' withdrawal of those objections "so that the court [may] review the Findings and Recommendation as not having been objected to by either party." Stipulated Withdrawal of Plaintiffs' Partial Objection, at 2 (doc. 43). This relieves me of my obligation to review Magistrate Judge Hubel's factual findings de novo. 28 U.S.C. § 636(b)(1)(C); see also Thomas v. Arn, 474 U.S. 140, 149-50 (1985); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). Having reviewed the legal principles de novo, I find no error.

Accordingly, I ADOPT Magistrate Judge Hubel's Findings and Recommendation (doc. 39) as my own opinion. I GRANT in part, and DENY in part defendants' motion to dismiss (doc. 16) as follows. I GRANT defendants' motion to dismiss plaintiffs' claim for statutory damages. I GRANT the motion to dismiss plaintiffs' claims against defendant BAC Home Loans Servicing, and DISMISS the claims against BAC Home Loan Servicing without prejudice. I DENY the motion to dismiss plaintiffs' remaining claims, including their claim for attorney fees and costs. Finally, I GRANT plaintiffs' motion to strike the Declaration of Kaley F. Fendall.

IT IS SO ORDERED.

DATED this 4th day of June, 2011.



James A. Redden
United States District Judge